

Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. The purchase of a pump for a diesel farm tank would not qualify for the exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

April 12, 2004

Dear Xxxxx:

This letter is in response to your letter dated June 24, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I farm & would like to have an assigned number so I can use it when purchasing farm products. Recently I purchased a pump for my diesel farm tank and had to pay sales tax on it and was told that was the policy.

I got it from AAA. Their sales tax number is ##.

I don't pay sales tax on the diesel fuel but have to pay tax on the pump. Doesn't make sense to me. Thank you for your time – I would appreciate you assigning me a number and information in regards to the pump.

Department's Response:

We suggest you review 86 Ill. Adm. Code 130.305, which is the Department's regulation for Farm Machinery and Equipment. Retailers' Occupation Tax (sales tax) does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. To obtain the exemption for farm machinery and equipment, a certification

containing the information required by Section 130.305(m) must be provided to the seller by the purchaser.

The exemption for production agriculture, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, and harvesting and drying crops. Activities such as clearing of land, mowing of fence rows, and creation of ponds or drainage facilities are not included, nor are the operations involved in the storing or transporting of crops and produce. See Section 130.305(f). The purchase of a pump for a diesel farm tank would not qualify for the exemption. The sale of the dyed diesel fuel itself, while not exempt from Retailers' Occupation Tax (sales tax), is exempt from motor fuel taxes under the Motor Fuel Tax Law (35 ICLS 505/) because it is sold or used for non-highway purposes.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk
Enc.